

Message Text

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ACTION IO-13

INFO OCT-01 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

L-03 EB-08 /068 W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 3033

INFO AMEMBASSY ALGIERS

AMEMBASSY BOGOTA

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY FREETOWN

AMEMBASSY ISLAMABAD

AMEMBASSY KINSHASA

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AMEMBASSY LONDON

AMEMBASSY MEXICO

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY TEHRAN

AMEMBASSY THE HAGUE

AMEMBASSY TOKYO

DEPT OF JUSTICE WASHDC UNN

DEPT OF TREASURY WASHDC UNN

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FOLLOWING FOR L-HANSEL AND EB-KATZ

E. O. 11652: N/A

TAGS: EGEN, EINV, UN

SUBJ: ECOSOC AD HOC WORKING GROUP ON CORRUPT PRACTICES

1. UNDER LEADERSHIP OF NEW CHAIRMAN FARROKH PARSI (IRAN)

WORKING GROUP HAS MOVED INTO DETAILED DISCUSSION OF SUBSTAN-

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TIVE ISSUES ON THE BASIS OF SECRETARIAT REPORTS. AT REQUEST
OF WORKING GROUP, SECRETARIAT IS NOW PREPARING SPECIFIC TEXTS
ON CRIMINALIZATION, DISCLOSURE, JUDICIAL ASSISTANCE, AND
OTHER ISSUES RELEVANT TO INTERNATIONAL AGREEMENT ON
ILLICIT PAYMENTS. AT THIS POINT DISCUSSION IS PROCEEDING
WITHOUT DECISION WHETHER TEXTS ULTIMATELY WOULD BE USED
FOR BINDING INTERNATIONAL AGREEMENT OR OTHER INSTRUMENT.

2. ALTHOUGH WE ARE FAR FROM AGREEMENT ON MAJOR SUBSTANTIVE ISSUES, THERE HAS BEEN A MARKED ABSENCE OF POLEMICS. DISCUSSIONS ARE PROCEEDING IN FRIENDLY AND CONSTRUCTIVE MANNER. AFRICAN DELEGATES, WHO HAVE OFTEN BEEN ABSENT THIS WEEK, HAVE NOT YET ALLUDED TO ISSUE OF TAXES OR ROYALTIES PAID TO RACIST REGIMES.

3. MAIN PROBLEMS AT THIS STAGE ARE: 1) CONTINUED MEXICAN RESISTANCE, APPARTNELY SUPPORTED BY VENEZUELA, TO BASIC CONCEPT OF INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS APART FROM BINDING CODE OF CONDUCT, AND 2) STRONG RESERVATIONS BY MOST DEVELOPED COUNTRIES CONCERNING US PROPOSALS FOR HOME COUNTRY CRIMINALIZATION AND INTERNATINALLY AGREED DISCLOSURE. ADMINISTRATION'S NEW PROPOSALS FOR CRIMINALIZATION WERE WARMLY WELCOMED BY CHAIRMAN, SPEAKING FOR HIMSELF AND OTHER DELEGATES. CANADA INDICATED IT IS STUDYING SIMILAR MEASURE PROHIBITING BRIBERY OF FOREIGN OFFICIALS BUT WOULD REQUIRE SUBSTANTIAL CONTACTS WITH CANADIAN TERRITORY AS BASIS OF JURISDICTION. CANDEL PROVATELY EXPRESSED CONCERN ABOUT US ASSERTION OF JURISDICTION IN RESPECT OF BRIBES OF THIRD COUNTRY OFFICIALS BY CANADIAN SUBSIDIARIES OF US ENTERPRISES. FRG, ITALIAN, JAPANESE AND UK DELS ALL EXPRESSED SERIOUS DOUBTS ABOUT EXTRATERRITORIAL CRIMINAL JURISDICTION EMPHASIZING DIFFICULTIES OF ENDORCEMENT AND POTENTIAL FOR SERIOUS POLITICAL PROBMES WITH THE GOVERNMENTS WHOSE OFFICIALS MIGHT BE INVOLVED. FRANCE INDICATED ITS LAWS ALREADY REACH SUCH CONDUCT BY FRENCH NATIONALS LIMITED OFFICIAL USE

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OR INVOLVING FRENCH TERRITORY WHERE THE ACT IS CRIMINAL IN THE COUNTRY CONCERNED. BELGIAN LAW ALSO PERMITS PROSECUTION IN CASES OF FOREIGN BRIBERY BY ITS NATIONALS UPON REQUEST BY THE FOREIGN COUNTRY.

4. AT THIS STAGE, THERE IS SUPPORT IN PRINCIPLE FOR INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS FROM IRAN, PAKISTAN, COLOMBIA AND CANADA (ALTHOUGH NO FINAL DECISION HAS BEEN TAKEN IN OTTAWA), AND STRONG OPPOSITION FROM THE FRG AND MEXICO. ITALY, JAPAN, FRANCE AND UK APPEAR PREPARED TO ACCEPT AN INTERNATIONAL AGREEMENT FOCUSED ON EXCHANGE OF INFORMATION AND JUDICIAL ASSISTANCE, BUT ARE STRONGLY OPPOSED TO PUBLIC DISCLOSURE. AFRICAN DELEGATES APPEAR TO BE CONSIDERING ISSUES WITH OPEN MIND. ALGERIA IS SAYING VERY LITTLE.

5. IT NOW APPEARS THAT WORKING GROUP MAY BE ABLE TO ADVANCE SUBSTANTIVE WORK SUFFICIENTLY IN THIS AND POSSIBLE RESUMED SESSION TO PROVIDE BASIS FOR ECOSOC DECISION NEXT

SUMMER WHETHER TO DEVELOP INTERNATIONAL AGREEMENT. HOWEVER, WORKING GROUP WILL NOT BE ABLE TO RECOMMEND INTERNATIONAL AGREEMENT UNLESS THE DEVELOPING COUNTRIES CAN AGREE TO DO SO. THE PROBLEM IN THE G77 IS THE LATIN AMERICAN GROUP LED BY MEXICO. WE HAVE ESTABLISHED WARM WORKING RELATIONSHIP WITH MEXDEL, BUT CHANGE IN INSTRUCTIONS FROM FOREIGN SECRETARY REAL WILL BE NECESSARY.
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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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